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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,265	03/28/2001	Wolfgang Fraas	P01,0047	6597
21171	7590	12/13/2006	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			HARPER, KEVIN C	
			ART UNIT	PAPER NUMBER
			2616	

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/806,265

Applicant(s)

FRAAS ET AL.

Examiner

Kevin C. Harper

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8,9 and 15 is/are rejected.
- 7) ☒ Claim(s) 10-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Response to Arguments

Applicant's arguments filed November 9, 2006 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Lemieux in view of Pasternak.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 8-9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemieux (US 6,052,371) in view of Pasternak et al. (US 5,710,756).

1. Regarding claims 8-9 and 15, Lemieux discloses a method for transmitting data from communications terminals (fig. 12, items 126; fig. 13, items 146) to a switching system (items 122 or 142) via a packet-oriented network (item 12). The method comprises setting up a data format formed of substructural elements for a data transmission between a switching system and several communication terminals (fig. 3, item 46; col. 7, lines 44-63), and communication terminals being connected to a packet-oriented network via a hub (fig. 12, item 124; fig. 13, item 144) with subscriber interfaces for each of the terminals (fig. 12, item 128; fig. 13, items 146), the switching system being connected to the packet-oriented network via an access unit (item 14) separate from the hub. The method further comprises transmitting data in a form of substructural elements to the hub by the communication terminals (fig. 3, item 46), inserting the substructural elements from several users into common data packets (col. 7, lines 3-18 and lines 48-50), transmitting the data packets to the access unit via the packet-oriented network (col. 7, lines 13-

Art Unit: 2616

19), extracting the substructural elements from the data packets by the access unit (col. 7, lines 19-28), and forwarding the substructural elements to the switching system by the access unit (col. 7, lines 28-30). Further regarding claim 9, the communication is bidirectional (fig. 12).

2. However, Lemieux does not disclose transmitting data by the hub. Pasternak discloses an integrated hub and packet access node (fig. 4, item 41; col. 6, lines 1-7). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the functionality of the access node and concentrator of Lemieux so that substructural elements are inserted into data packets by a hub device in order to provide an integrated device having enhanced functionality as is known in the art (Pasternak, col. 6, lines 2-4).

Allowable Subject Matter

Claims 10-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 571-272-3166. The examiner can normally be reached weekdays from 11:00 AM to 7:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To, can be reached at 571-272-7629. The centralized fax number for the Patent

Art Unit: 2616

Office is 571-273-8300. For non-official communications, the examiner's personal fax number is 571-273-3166 and the examiner's e-mail address is kevin.harper@uspto.gov.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications associated with a customer number is available through Private PAIR only. For more information about the PAIR system, see portal.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'K. Harper', is positioned above the printed name.

Kevin C. Harper

December 9, 2006